

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
601 NEW JERSEY AVENUE, NW, SUITE 9500
WASHINGTON, DC 20001

March 31, 2011

BIG RIVER MINING, LLC	:	CONTEST PROCEEDINGS
Contestant	:	
	:	Docket No. WEVA 2008-1627-R
	:	Order No. 6606120; 07/09/2008
v.	:	
	:	Docket No. WEVA 2009-1408-R
	:	Citation No. 8014667; 04/13/2009
SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	Docket No. WEVA 2009-1409-R
ADMINISTRATION (MSHA),	:	Citation No. 8014669; 04/15/2009
Respondent	:	
	:	Docket No. WEVA 2009-1410-R
	:	Citation No. 8014670; 04/16/2009
	:	
	:	Docket No. WEVA 2009-1417-R
	:	Citation No. 8016683; 04/29/2009
	:	
	:	Docket No. WEVA 2009-1418-R
	:	Citation No. 8016684; 04/29/2009
	:	
	:	Docket No. WEVA 2009-1867-R
	:	Citation No. 8019935; 07/22/2009
	:	
	:	Docket No. WEVA 2009-1868-R
	:	Citation No. 6606537; 07/22/2009
	:	
	:	Docket No. WEVA 2009-1869-R
	:	Citation No. 8019938; 07/22/2009
	:	
	:	Docket No. WEVA 2009-1870-R
	:	Citation No. 8019939; 07/22/2009
	:	
	:	Broad Run
	:	Mine ID 46-09136
SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDINGS
MINE SAFETY AND HEALTH	:	

ADMINISTRATION (MSHA),
Petitioner

v.

BIG RIVER MINING, LLC.,
Respondent

: Docket No. WEVA 2009-1
: A.C. No. 46-09136-156167
:
: Docket No. WEVA 2009-358
: A.C. No. 46-09136-159271
:
: Docket No. WEVA 2009-376
: A.C. No. 46-09136-167886-01
:
: Docket No. WEVA 2009-377
: A.C. No. 46-09136-167886-02
:
: Docket No. WEVA 2009-652
: A.C. No. 46-09136-170809-01
:
: Docket No. WEVA 2009-892
: A.C. No. 46-09136-176268
:
: Docket No. WEVA 2009-893
: A.C. No. 46-09136-176268
:
: Docket No. WEVA 2009-1105
: A.C. No. 46-09136-178779-02
:
: Docket No. WEVA 2009-1301
: A.C. No. 46-09136-181460
:
: Docket No. WEVA 2009-1302
: A.C. No. 46-09136-181460
:
: Docket No. WEVA 2009-1604
: A.C. No. 46-09136-187355
:
: Docket No. WEVA 2009-1669
: A.C. No. 46-09136-184534
:
: Docket No. WEVA 2009-1742
: A.C. No. 46-09136-190394
:
: Docket No. WEVA 2009-1989
: A.C. No. 46-09136-196188
:
: Docket No. WEVA 2009-1990
: A.C. No. 46-09136-196188
:

: Docket No. WEVA 2010-191
 : A.C. No. 46-09136-199569-01
 :
 : Docket No. WEVA 2010-192
 : A.C. No. 46-09136-199569-02
 :
 : Docket No. WEVA 2010-355
 : A.C. No. 46-09136-202456
 :
 : Docket No. WEVA 2010-473
 : A.C. No. 46-09136-205265
 :
 : Docket No. WEVA 2010-558
 : A.C. No. 46-09136-207865-01
 :
 : Docket No. WEVA 2010-559
 : A.C. No. 46-09136-207865
 :
 : Docket No. WEVA 2010-677
 : A.C. No. 46-09136-210733
 :
 : Mine: Broad Run

DECISION APPROVING SETTLEMENT

Before: Judge Feldman

These captioned proceedings are before me based upon a petition for assessment of civil penalty filed pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977 (the Act). The Secretary has filed a motion to approve a comprehensive settlement agreement and to dismiss the 32 above captioned dockets. A reduction in total civil penalty from \$1,341,410.00 to \$979,230.00 is proposed.

The specific settlement terms are as noted in the comprehensive settlement agreement appended to the electronic version of this decision approving settlement, and posted online at the Commission's website: <http://www.fmshrc.gov>. The above captioned contest dockets have been resolved by the terms of the comprehensive settlement agreement. The proposed and agreed upon civil penalties for each docket are as follows:

Docket No.	Originally Assessed Penalty	Proposed Settlement
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WEVA 2009-1	\$57,333.00	\$45,263.00
WEVA 2009-358	\$119,411.00	\$85,831.00
WEVA 2009-376	\$40,250.00	\$34,723.00
WEVA 2009-377	\$1,156.00	\$1,156.00
WEVA 2009-652	\$16,961.00	\$16,961.00
WEVA 2009-892	\$4,000.00	\$4,000.00
WEVA 2009-893	\$18,682.00	\$18,682.00
WEVA 2009-1105	\$38,759.00	\$38,759.00
WEVA 2009-1301	\$27,333.00	\$27,333.00
WEVA 2009-1302	\$65,699.00	\$65,699.00
WEVA 2009-1604	\$10,402.00	\$10,402.00
WEVA 2009-1669	\$12,718.00	\$12,718.00
WEVA 2009-1742	\$2,824.00	\$2,824.00
WEVA 2009-1989	\$50,694.00	\$25,478.00
WEVA 2009-1990	\$92,570.00	\$74,115.00
WEVA 2010-191	\$101,522.00	\$78,538.00
WEVA 2010-192	\$140,651.00	\$95,820.00
WEVA 2010-355	\$17,926.00	\$17,926.00
WEVA 2010-473	\$94,291.00	\$67,978.00
WEVA 2010-558	\$263,643.00	\$135,675.00
WEVA 2010-559	\$146,573.00	\$101,337.00
WEVA 2010-677	\$18,012.00	\$18,012.00
TOTAL	\$1,341,410.00	\$979,230.00

I have considered the representations and documentation submitted in these matters and I conclude that the proffered settlement is appropriate under the criteria set forth in Section 110(i) of the Act, 30 U.S.C. § 820(i). **WHEREFORE**, the motion for approval of settlement **IS GRANTED**, and pursuant to the parties' agreement, Big River Mining, LLC **IS ORDERED** to pay the \$979,230.00 civil penalty within 30 days of this order in satisfaction

of the 32 dockets at issue.¹ Upon receipt of timely payment, the captioned contest and civil penalty proceedings **ARE DISMISSED**.

Jerold Feldman
Administrative Law Judge

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¹ Payment should be sent to: Mine Safety and Health Administration, U.S. Department of Labor, Payment Office, P.O. Box 790390, St. Louis, MO 63179-0390. Please include the Docket Nos. and A.C. Nos. noted in the above caption on the check(s).